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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/919,727

07/31/2001

Stephen Ashcroft

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EXAMINER

PRIETO, BEATRIZ

ART UNIT

PAPER NUMBER

2142

MAIL DATE

DELIVERY MODE

01/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/919,727

Applicant(s)

ASHCROFT ET AL.

Examiner

Prieto B.

Art Unit

2142

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-31.

Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____

Continuation of 11. does NOT place the application in condition for allowance because: Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form (see 1.113). If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of: (c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 USC 132 is outstanding, the submission must meet the reply requirements of § 1.111 (see MPEP 706.07). In this case, applicant's reply to final rejection does not comply with any requirements or objections as to form 1.113 including but not limited to the submission of new arguments. Applicant's remarks and/or comments with regards to the substance of a telephonic interview as presented on page 10 seem to be inconsistent with recordation of the substance of the interview as mailed 7/18/06 for the telephonic interview conducted on July 6 2006 between examiner and applicant. The Applicant's summary of what took place at the interview is required to be carefully checked to determine the accuracy of any argument or statement attributed to the examiner during the interview because it bears directly on the question of patentability (see MPEP § 502.03 and § 713.04). Applicant's remarks on p. 2-3 with respect to the accuracy of his/her remarks regarding the substance of the telephonic interview conducted on 7/18/06 has been fully considered but not found inconsistent with the record. In accordance with MPEP 714.03 Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete or accurate, the examiner may give the applicant a 1-month time period to complete the reply under 37 CFR 1.135(c) where the record of the substance of the interview is in a reply to a nonfinal Office action. Hence, Amendment Is Non-Responsive to Interview. The reply filed on 7/06/06 is not fully responsive to the prior Office action because it fails to include a complete or accurate record of the substance of the 7/06/06 interview. Interview summary PTO-418 mailed 7/18/06 states: [Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant contacted examiner requesting a telephonic interview and faxed required request w/proposed amendment to the claims (see attached). Applicant requested examiner to review proposed amendment and provide feedback indicating as to whether the proposed amendment may overcome the prior art applied. Examiner indicated that any indication as to whether the proposed amendment may potentially overcome the prior art of record will be provided merely to aid applicant and based on a cursory review of at least the primary applied reference and absolutely contingent to a full and thorough examination of applicant's timely filed response. Any statement provided in response to the above mentioned applicant's requested is NOT FINAL and may be REVERSED upon full examination as indicated. In this case, based on a CURSORY review, as a PRELIMINARY statement and CONTINGENT to a full examination, the submitted proposed amendment consisting of the addition of the clause "where the at least one model bean is constructed by a web server" seems that it may overcome the applied primary reference. Applicant is urged however the review all applied reference(s) and references of record when amending the claims to accelerate prosecution of instant application]. Applicant's remarks on page 10 of response mailed 7/06/06 state: REMARKS The Applicant wishes to thank the Examiner for the courtesies extended during the Examiner's Interview on July 7, 2006. Claims 1, 19, and 31 are presently amended to more clearly describe the Applicant's invention. As the Examiner indicated during the interview, the prior art of record does not disclose or suggest the claimed system, and the Applicant respectfully requests that the Examiner's rejections of all claims be withdrawn.]. Thus, it is respectfully noted that Applicant's characterization of Examiner's response and/or comments during the interview are deemed inaccurate, namely, it does NOT seem that examiner ever indicated that the proposed claimed limitation is NOT disclosed or suggested by the reference.


BEATRIZ PRIETO
PRIMARY EXAMINER